

STATE OF MICHIGAN
IN THE 6th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DANIEL P. PADEN,
Plaintiff,

Case No.: 15-146685-CZ

vs.

Hon.: Judge Anderson

TOM ERIK RASPOTNIK,
Defendant,

Pascaris Law Firm, PLLC
By: Thomas D. Pascaris (P74617)
Attorney for Plaintiff
23629 Liberty, Suite 104
Farmington, MI 48835
248-893-6090

TOM ERIK RASPOTNIK
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

pd/ct

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT, AFFIRMATIVE AND/OR
SPECIAL DEFENSES, RELIANCE UPON PLAINTIFF'S JURY DEMAND, COUNTER-
COMPLAINT, AND JURY DEMAND**

NOW COMES Defendant, TOM ERIK RASPOTNIK, and states for his Answers as follows:

Jurisdiction and Parties

1. In answering Paragraph 1 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiffs to their proofs.
2. In answering paragraph 2 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to their proofs.
3. In answering paragraph 3 of Plaintiff's Complaint, Defendant admits as true.

4. In answering Paragraph 4 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to their proofs.

5. In answering paragraph 5 of Plaintiff's Complaint, Defendant denies as untrue.

General Allegations

6. In answering paragraph 6 of Plaintiff's Defendant incorporates all of the above paragraphs by reference as though fully stated herein to avoid repetition.

7. In answering Paragraph 7 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

8. In answering paragraph 8 of Plaintiff's Complaint, Defendant denies making any threats as untrue, and for the rest of the allegation lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

9. In answering paragraph 9 of Plaintiff's Complaint, Defendant denies making any threats as untrue, and for the rest of the allegation lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

10. In answering paragraph 10 of Plaintiff's Complaint, Defendant denies any claims of harassment as untrue and for the rest of the allegation lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

11. In answering paragraph 11 of Plaintiff's Complaint, Defendant denies as untrue.

12. In answering paragraph 12 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

13. In answering paragraph 13 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

14. In answering paragraph 14 of Plaintiff's Complaint, Defendant denies any harassing sound as untrue, and with regards to the rest of the allegation lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

15. In answering paragraph 15 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

Count I-Defamation

16. In answering paragraph 16 of Plaintiff's Defendant incorporates all of the above paragraphs by reference as though fully stated herein to avoid repetition.

17. In answering paragraph 17 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

18. In answering paragraph 18 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

19. In answering paragraph 19 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

20. In answering paragraph 20 of Plaintiff's Complaint, Defendant denies as untrue.

21. In answering paragraph 21 of Plaintiff's Complaint, Defendant denies as untrue.

Count II-Intentional Infliction of Emotional Distress

22. In answering paragraph 22 of Plaintiff's Defendant incorporates all of the above paragraphs by reference as though fully stated herein to avoid repetition.

23. In answering paragraph 23 of Plaintiff's Complaint, Defendant denies as untrue.

24. In answering paragraph 24 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

25. In answering paragraph 25 of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation to either admit or deny the allegations and therefore, leaves Plaintiff to his proofs.

26. In answering paragraph 26 of Plaintiff's Complaint, Defendant denies as untrue.

27. In answering paragraph 27 of Plaintiff's Complaint, Defendant denies as untrue.

WHEREFORE, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's complaint, and award Tom Erik Raspotnik his costs in defending this action, and grant any further relief this court deems just and equitable.

Respectfully submitted,

DATE: July 31, 2015

/s/ Tom Erik Raspotnik

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

STATE OF MICHIGAN
IN THE 6th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DANIEL P. PADEN,
Plaintiff,

Case No.: 15-146685-CZ

vs.

Hon.: Judge Anderson

TOM ERIK RASPOTNIK,
Defendant,

Pascaris Law Firm, PLLC
By: Thomas D. Pascaris (P74617)
Attorney for Plaintiff
23629 Liberty, Suite 104
Farmington, MI 48835
248-893-6090

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

AFFIRMATIVE AND/OR SPECIAL DEFENSES

PLEASE TAKE NOTICE that, upon the trial for the above-entitled matter, Defendant will offer proof as to the following Affirmative Defenses:

1. Plaintiff has failed to provide proper service on the Defendant.
2. The Plaintiff has failed to state a cause of action as a matter of law, and at the appropriate time, Defendant will move this Honorable Court for the entry of an Order for Summary Disposition, seeking to dismiss the Complaint with prejudice.
3. That the Plaintiff and/or their agents may have failed to present reasonable proof of the fact and/or amount of their alleged losses, thereby precluding or limiting recovery of benefits, interest.
4. That the Plaintiff has failed to properly mitigate their damages and the Defendant will be entitled to a judgment as a matter of law on this basis alone.

5. Defendant has acted in good faith and without malice at all times relevant to this lawsuit.

6. Plaintiff was negligent in mitigating damages.

7. Plaintiff's claim is barred due to the assumption of the risk.

8. Plaintiff's claim is barred because he has not acted in good faith.

9. Defendant requests a Reply to their Affirmative Defenses.

10. Any statements made by Defendant are true.

11. Any statements made by Defendant are a matter of public record(s).

12. Plaintiff's is barred from exemplary and punitive damages.

13. Plaintiff's claims are barred by the Statute of Limitations.

14. Plaintiff attempted to put the Defendant in the false light of his community.

15. Plaintiff attempted and or has defamed Defendant.

16. Plaintiff, by his own conduct, waived any rights he may have to assert the claims alleged in his Complaint.

17. That Defendant herein reserves the right to add other and further Affirmative Defenses as same become manifest during the course of continuing discovery herein.

WHEREFORE, Defendant respectfully requests this Honorable Court enter a judgment of no cause for action in its favor and against Plaintiff, together with an award of costs and fees so wrongfully sustained.

Respectfully Submitted,

DATE: July 31, 2015

/s/ Tom Erik Raspotnik

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371

STATE OF MICHIGAN
IN THE 6th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DANIEL P. PADEN,
Plaintiff,

Case No.: 15-146685-CZ

vs.

Hon.: Judge Anderson

TOM ERIK RASPOJNIK,
Defendant,

Pascaris Law Firm, PLLC
By: Thomas D. Pascaris (P74617)
Attorney for Plaintiff
23629 Liberty, Suite 104
Farmington, MI 48835
248-893-6090

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

RELIANCE UPON JURY DEMAND

Defendant hereby relies upon Plaintiff's requests for a trial by Jury in this matter.

Respectfully Submitted,

DATE: July 31, 2015

/s/ Tom Erik Raspotnik
Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371

STATE OF MICHIGAN
IN THE 6th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DANIEL P. PADEN,
Plaintiff/Counter-Defendant,

Case No.: 15-146685-CZ

vs.

Hon.: Judge Anderson

TOM ERIK RASPOTNIK,
Defendant/Counter-Plaintiff,

Pascaris Law Firm, PLLC
By: Thomas D. Pascaris (P74617)
Attorney for Plaintiff
23629 Liberty, Suite 104
Farmington, MI 48835
248-893-6090

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

DEFENDANT/COUNTER-PLAINTIFF'S
COUNTER-COMPLAINT

NOW COMES Defendant/Counter-Plaintiff, TOM ERIK RASPOTNIK ("Raspotnik"), in pro per and for his Counter-Complaint states as follows:

PARTIES AND JURISDICTION

1. Defendant/Counter-Plaintiff is a resident of Oakland County, State of Michigan.
2. Upon information and belief, Plaintiff/Counter-Defendant is a resident of California.
3. Venue is proper because the cause of action occurred in Macomb and Oakland Counties as well as Plaintiff/Counter-Defendant filed his initial action in this county.
4. This Court has jurisdiction because venue is proper and this is a Counter-Complaint seeking money damages.

COMMON ALLEGATIONS OF FACT

5. Plaintiff/Counter-Defendant Paden has made multiple attempts of threatening Defendant/Counter-Plaintiff Raspotnik with violence against his person and his family.

6. Plaintiff/Counter-Defendant Paden recorded multiple conversations between the Defendant/Counter-Plaintiff Raspotnik and himself.

7. Plaintiff/Counter-Defendant Paden broadcasted through his podcast, in which Plaintiff/Counter-Defendant Paden altered Defendant/Counter-Plaintiff Raspotnik's voice and responses in which puts the Defendant/Counter-Plaintiff's character up to scorn, contempt and hatred in Defendant/Counter-Plaintiff Raspotnik's community.

8. Plaintiff/Counter-Defendant Paden continually stalked Defendant/Counter-Plaintiff Raspotnik through abusive and obscene phone texts.

9. Plaintiff/Counter-Defendant Paden has acted in reckless disregard of the same type of conduct by stalking many others in the community.

10. Plaintiff/Counter-Defendant Paden has continually posted and published untruths about Defendant/Counter-Plaintiff Raspotnik and Defendant/Counter-Plaintiff Raspotnik's wife all throughout the internet, podcasts and social media.

11. Plaintiff/Counter-Defendant Paden has enlisted other conspirators to defame Defendant/Counter-Plaintiff Raspotnik's reputation in the community through the internet, podcasts and social media.

12. Plaintiff/Counter-Defendant Paden has visited Defendant/Counter-Plaintiff Raspotnik's home without being invited, harassing Defendant/Counter-Plaintiff Raspotnik's wife, and father.

13. Plaintiff/Counter-Defendant Paden has harassed Defendant/Counter-Plaintiff Raspotnik's neighbors by passing out slanderous flyers defaming Defendant/Counter-Plaintiff Raspotnik.

14. Plaintiff/Counter-Defendant Paden has continually posted and published untruths disputing Defendant/Counter-Plaintiff Raspotnik's legitimate Doctorate trying to ruin his reputation.

15. Plaintiff/Counter-Defendant Paden has continually texted Defendant/Counter-Plaintiff Raspotnik harmful threats to Defendant/Counter-Plaintiff Raspotnik's phone.

16. Plaintiff/Counter-Defendant Paden has created a fake Youtube channel changing Defendant/Counter-Plaintiff Raspotnik's voice and ruining Defendant/Counter-Plaintiff Raspotnik's reputation in the community.

17. Plaintiff/Counter-Defendant Paden has contacted Defendant/Counter-Plaintiff Raspotnik's landlords trying to get Defendant/Counter-Plaintiff Raspotnik and his wife evicted for false reasons.

18. Plaintiff/Counter-Defendant Paden has posted and published untruths throughout the internet, podcasts and social media, claiming that Defendant/Counter-Plaintiff Raspotnik is a convicted sex offender.

19. Plaintiff/Counter-Defendant Paden has posted and published untruths throughout the internet, podcasts and social media, claiming that Defendant/Counter-Plaintiff and his wife sacrifice animals and babies throughout the internet, podcasts and social media.

20. Defendant/Counter-Plaintiff has been injured and damaged by the actions of Plaintiff/Counter-Defendant's actions, statements and publications.

21. Defendant/Counter-Plaintiff has suffered injury and damage, past, present and future, including but not limited to the following:

- a. Actual wage loss and lost earning capacity;
- b. Reputation in the local and web community;
- c. Pain, suffering, and emotional distress;
- d. Humiliation, mortification and embarrassment;
- e. Loss of society, companionship, and enjoyment of life;
- f. Attorney fees;
- g. Other injuries, damages, consequences that are found to be related to the actions of Defendant/Counter-Plaintiff that develop or manifest themselves during the course of discovery and trial;

COUNT I
DEFAMATION

22. Defendant/Counter-Plaintiff Raspotnik hereby incorporates all of the above paragraphs by reference as though fully stated herein.

23. Plaintiff/Counter-Defendant Paden recklessly or maliciously made false and defamatory statements concerning the Defendant/Counter-Plaintiff Raspotnik.

24. Plaintiff/Counter-Defendant Paden made unprivileged statements with malicious intent that hold the Defendant/Counter-Plaintiff up to hatred, scorn, contempt, or ridicule in his community.

25. Plaintiff/Counter-Defendant Paden made unprivileged publications of the statements to third parties by posting multiple untruths about the Defendant/Counter-Plaintiff Raspotnik's character stating that he was a convicted sex offender and he sacrifices babies.

26. Plaintiff/Counter-Defendant Paden's unprivileged statements caused fault amounting to at least negligence on the part of the Plaintiff/Counter-Defendant Paden as publisher.

27. Plaintiff/Counter-Defendant Paden's unprivileged statements had the tendency to harm the Defendant/Counter-Plaintiff Raspotnik.

28. Plaintiff/Counter-Defendant Paden recklessly or maliciously published oral and written false statements which were intended to harm or impeach Defendant/Counter-Plaintiff Raspotnik's honesty, integrity, virtue, and reputation.

29. Plaintiff/Counter-Defendant Paden acted with a reckless disregard in determining whether such statements were true before making or publishing them.

30. Defendant/Counter-Plaintiff Raspotnik is not a public figure.

31. The publications were not privileged.

32. The statements made by Plaintiff/Counter-Defendant Paden were false, made with reckless disregard for the truth, and unsustainable.

33. Based upon information and belief, this information was published orally and in writing.

34. The statements defamed Defendant/Counter-Plaintiff Raspotnik and caused palpable damages as set forth in this complaint.

35. Defendant/Counter-Plaintiff Raspotnik suffered injuries including but not limited to injury to character, reputation, mental anguish, loss of past and future income, loss of earnings capacity, embarrassment and humiliation.

36. The Plaintiff/Counter-Defendant's publications has resulted in damage to Defendant/Counter-Plaintiffs' reputation in the community and economic loss, including, but not limited to, the following:

a. loss of income and proceeds, the time value of money, and revenue from Defendant/Counter-Plaintiff's business from the date that Plaintiff/Counter-Defendant started defaming, stalking and harassing Defendant/Counter-Plaintiff through the present and into the future;

b. emotional distress;

c. humiliation, mortification, and embarrassment;

d. sleeplessness and anxiety; and

e. other damages that may arise during the course of discovery and the course of this trial

37. The statements made by Plaintiff/Counter-Defendant Paden are actionable as defamation per se.

WHEREFORE, TOM ERIK RASPOTNIK respectfully request this Honorable Court enter a judgment in his favor and against DANIEL PADEN in whatever amount this court deems necessary or in an amount he is found entitled and for all other legal and equitable relief provided for by law, together with costs and attorney fees, and any other applicable law, statute, rule or ordinance.

COUNT II
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

38. Defendant/Counter-Plaintiff Raspotnik hereby incorporates all of the above paragraphs by reference as though fully stated herein.

39. The conduct of Plaintiff/Counter-Defendant Paden was intentional, extreme, grossly negligent, and outrageous.

40. Defendant/Counter-Plaintiff Raspotnik was subjected to embarrassment and shame due to Plaintiff/Counter-Defendant Paden's conduct.

41. Plaintiff/Counter-Defendant Paden knew or should have known his conduct would cause severe emotional distress to Defendant/Counter-Plaintiff Raspotnik.

42. As a direct and proximate result of Plaintiff/Counter-Defendant Paden's conduct, Defendant/Counter-Plaintiff Raspotnik suffered severe and extreme emotional distress, injury and damage.

43. The events described above would naturally and probably result in emotional distress.

44. Plaintiff/Counter-Defendant's conduct as outlined above was extreme, outrageous, and of such character as not to be tolerated by a civilized society.

45. Defendant's conduct as outlined above was for an ulterior motive or purpose.

46. The emotional distress suffered by Plaintiff physically manifested itself in symptoms including, but not limited to:

- a) Shaking hands;
- b) Sleeplessness;
- c) Increased anxiety;
- d) Headaches;
- e) Crying spells;
- f) Nausea;
- g) Nightmares;
- h) Cold sweats;
- i) Loss of appetite;
- j) Dizziness; and

k) Such other injuries and physical manifestations as may appear during the course of discovery and trial in this matter.

WHEREFORE, TOM ERIK RASPOTNIK respectfully request this Honorable Court enter a judgment in his favor and against DANIEL PADEN in whatever amount this court deems necessary or in an amount he is found entitled and for all other legal and equitable relief provided for by law, together with costs and attorney fees, and any other applicable law, statute, rule or ordinance.

COUNT III
FALSE LIGHT

47. Defendant/Counter-Plaintiff Raspotnik hereby incorporates all of the above paragraphs by reference as though fully stated herein.

48. The Plaintiff/Counter-Defendant Paden's conduct created unreasonable objectionable publicity, attributing to the Defendant/Counter-Plaintiff Raspotnik's characteristics, conduct or beliefs that were false and Plaintiff/Counter-Defendant Paden presented these statements to the public.

49. The Plaintiff/Counter-Defendant Paden's falsehood of the Defendant/Counter-Plaintiff Raspotnik misrepresented the Defendant/Counter-Plaintiff Raspotnik's characteristics, conduct or beliefs.

50. The Plaintiff/Counter-Defendant Paden negligently breached his duties and obligations to protect the Defendant/Counter-Plaintiff Raspotnik's mental, physical and/or emotional well-being.

51. The Plaintiff/Counter-Defendant Paden made communications that were broadcasted to the public in general or publicized to a large number of people.

52. The Plaintiff/Counter-Defendant Paden made communications that, in fact, did place the injured party in a light which would be highly offensive to a reasonable person.

53. The Plaintiff/Counter-Defendant Paden made communications did, in fact, have knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

WHEREFORE, TOM ERIK RASPOTNIK respectfully request this Honorable Court enter a judgment in his favor and against DANIEL PADEN in whatever amount this court deems necessary or in an amount he is found entitled and for all other legal and equitable relief provided for by law, together with costs and attorney fees, and any other applicable law, statute, rule or ordinance.

Respectfully Submitted,

DATE: July 31, 2015

/s/ Tom Erik Raspotnik
Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371

STATE OF MICHIGAN
IN THE 6th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DANIEL P. PADEN,
Plaintiff/Counter-Defendant,

Case No.: 15-146685-CZ

vs.

Hon.: Judge Anderson

TOM ERIK RASPOJNIK,
Defendant/Counter-Plaintiff,

Pascaris Law Firm, PLLC
By: Thomas D. Pascaris (P74617)
Attorney for Plaintiff
23629 Liberty, Suite 104
Farmington, MI 48835
248-893-6090

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

JURY DEMAND

Defendant/Counter-Plaintiff requests a trial by Jury for his Counter-Complaint.

Respectfully Submitted,

DATE: July 31, 2015

/s/ Tom Erik Raspotnik
Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371

STATE OF MICHIGAN
IN THE 6th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DANIEL P. PADEN,
Plaintiff,

Case No.: 15-146685-CZ

vs.

Hon.: Judge Anderson

TOM ERIK RASPOTNIK,
Defendant,

Pascaris Law Firm, PLLC
By: Thomas D. Pascaris (P74617)
Attorney for Plaintiff
23629 Liberty, Suite 104
Farmington, MI 48835
248-893-6090

Tom Erik Raspotnik
Defendant in pro per
109 Dunlap Circle
Oxford, MI 48371
231-742-2811

PROOF OF SERVICE

I, Tom Erik Raspotnik, being first duly sworn, deposes and states that on July 31, 2015 he served a copy of Defendant's Answer to Plaintiff's Complaint, Affirmative and/or Special Defenses, Reliance Upon Jury Demand, Defendant/Counter-Plaintiff's Counter-Complaint, Jury Demand, and this Proof of Service upon:

| | |
|---|--|
| Pascaris Law Firm, PLLC By: Thomas D. Pascaris (P74617) Attorney for Plaintiff 23629 Liberty, Suite 104 Farmington, MI 48835 248-893-6090 | |
|---|--|

XX by the Oakland County E-file and Serve system.

_____ by placing same in an envelope with first class U.S. postage affixed and depositing same U.S. Postal Service mail box.

/s/ Tom Erik Raspotnik
Tom Erik Raspotnik